

Appl. No. 09/532,576
Atty. Docket No. 7995
Amdt. Dated June 21, 2004
Reply to Final Office Action of June 3, 2004
Customer No. 27752

REMARKS

No Amendments to the present claims are presented in this response to the Office Action dated June 3, 2004. Claims 58-62 have been withdrawn from consideration. Claims 1-4, 6-14, 16-18, 20-40, and 40-62 remain pending in this Application and are presented for the Examiner's reconsideration in light of the following additional comments.

Telephonic Interview

Applicants thank the Examiner for the telephonic interview of June 16, 2004. In substance, Applicants discussed with the Examiner that the *Hamilton, et al.* reference, U.S. Patent No. 5,968,633, as discussed with reference to Fig. 10, discloses a porous material which overlies a protected substance disposed upon the front face of the material. The inclusion of such a porous material provides additional protection for the substance prior to activation of the sheet material and may provide additional distributive benefit to more evenly disperse the substance onto the target surface, particularly when translational motion of the sheet material is also employed. The porous material may also provide additional interaction with the substance, such as for sheer-thinning substances, and may provide additional benefits such as lathering or foam generation. One application envisioned for the embodiment described in the specification of the '633 reference for Fig. 10 is for a structure to be used as a cleansing cloth which provides its own source of cleansing agent. Thus, Applicants respectfully believe that the porous material of the '633 reference provides a distribution means to disperse a shear-thinning substance and does not provide a permeable substrate layer bonded to the back face of a film forming the adherent sheet material, as claimed by Applicants.

In light of this discussion, the Examiner requested Applicants file an After Final Amendment.

Allowable Subject Matter

The Examiner has indicated that Claims 17, 36-38, 54, and 55 would be allowable if rewritten in independent form, including all limitations of the base claim and any intervening claims. Applicants thank the Examiner for this determination.

Rejections Under 35 USC §103

Claims 1-4, 6-11, 13, 16, 18, 20, 40, 42-49, 51-53, 56, and 57 have been finally rejected over *Hamilton, et al.*, U.S. Patent No. 5,662,758, in view of *Hamilton, et al.*, U.S. Patent No. 5,968,633. Previous arguments made with respect to both *Hamilton* references remain in effect but will not be

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repeated for the sake of brevity. Applicants traverse this rejection for the following additional reasons:

1. As mentioned previously, Applicants' Claims 1 and 40 claims an adherent sheet material comprising, *inter alia*, a film having a front face and back face and a permeable or porous substrate layer bonded to the back face.

2. Further, Applicants again concur that *Hamilton* ('758) fails to disclose a permeable substrate bonded to the back face of a film material.

3. The embodiment depicted in Figure 10 of *Hamilton* ('633) provides a layer of a porous material 165 which overlies the protected substance 152 from the side opposite to that protected by the sheet material. (13:15-23) In other words, the porous material 165 is positioned upon the front face of the film material. Ostensibly, the inclusion of the such a porous material provides additional protection for the substance prior to activation of the sheet material and may provide additional **distributive** benefit to more evenly **disperse the substance onto the target surface**, particularly when translational motion of the sheet material is also employed. (13:32-37) Further, the porous material may also provide additional interaction with the substance such as for **shear-thinning substances** and may provide additional benefits such as lathering or foam generation, etc. (13:37-40) The '633 reference provides an exemplary application for such a structure as a cleansing cloth which provides its own source of cleansing agent. (13:40-42)

4. Thus, Applicants believe that the embodiment depicted in Figure 10 of the '633 reference was directed to positioning a porous material over a substance, such as a cleansing agent. This is not the same as providing a permeable substrate layer on the back face of a film material where the front face of the film material is provided with a plurality of collapsible, non-adhesive protrusions.

5. Thus, it is evident that there is no suggestion within the '633 reference to provide an adherent sheet material comprising, *inter alia*, a film having a front and back face and providing a permeable substrate layer bonded to the back face of the film, as required by Applicants' Claims 1 and 40.

"To establish a *prima facie* case of obviousness, the Examiner must, *inter alia*, show 'some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art that would lead that individual to combine the relevant teachings of the references.'" *In re Thrift*, 298 F.3d 1357, 63 U.S.P.Q.2d 2002 (Fed. Cir. 2002), citing *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Thus, it is settled Federal Circuit law that in holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have lead a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention. *See Karsten Mfg.*

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Corp. v. Cleveland Golf Co., 242 F.3d 1376, 58 U.S.P.Q.2d 1286 (Fed. Cir. 2001). Because there is no suggestion in the '633 reference to provide an adherent sheet material comprising a permeable or porous substrate layer bonded to the back face of the sheet material, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to Claims 1 and 40. Further, because Claims 2-4, 6-11, 13, 16, 18, 20, 42-49, 51-53, 56, and 57 all depend directly or indirectly from Applicants' independent Claims 1 or 40, they contain all of their respective limitations. For this reason, Applicants submit that the arguments made above concerning the allowability of Claims 1 and 40 are equally applicable to the rejection of 2-4, 6-11, 13, 16, 18, 20, 42-49, 51-53, 56, and 57 under 35 U.S.C. §103(a). Applicants therefore request reconsideration and withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to the instant claims over *Hamilton* in view of *Hamilton*.

Claim 21 has been finally rejected over *Hamilton*, U.S. Patent No. 5,871,607 in view of *Sorensen*, et al., U.S. Patent No. 4,889,234. Previous arguments made with respect to the *Hamilton* and *Sorensen* references remain in effect but will not be repeated for the sake of brevity. The Examiner is respectfully requested to consider the following new matters in regard to the instant rejection:

1. Applicants' independent Claim 21 claims an adherent sheet material comprising at least one adhesive, non-raised region protected from inadvertent adherence to a contact surface comprising, *inter alia*, a permeable film and where the adhesive, non-raised region has a peel force of at least about 0.3 pounds per linear inch.

2. The *Sorensen* reference discloses a self-adhesive label having discreet areas provided with differently patterned adhesive coverages. (Abstract) Such labels, as disclosed by the *Sorensen* reference, could be applied as backing tape to a cereal box or a bag; for example, to control operation of a dispensing flap or spout. (Abstract) In construction, the label is provided as a flat substrate having an adhesive coating disposed thereon. (4:45-54)

3. Thus, it is clear from the *Sorensen* reference that there is no disclosure or teaching, much less a suggestion, to provide an adherent sheet material comprising at least one adhesive, non-raised region protected from inadvertent adherence to a contact surface by providing a plurality of collapsible, non-adhesive protrusions extending outwardly from the front face and providing the adhesive between the protrusions. In fact, the *Sorensen* reference is silent with respect to providing adhesive on any three-dimensional structure.

4. Further, there is no teaching or suggestion, in the *Sorensen* reference to provide a three-dimensional adherent sheet material having a peel force of at least about 0.3 pounds per linear inch, as claimed by Applicants.

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Even if a prior art device "may be capable of being modified to run the way [Applicant's] apparatus has claimed, there must be a suggestion or motivation in the reference to do so." *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990) (emphasis added). Further, it is error to "pick and choose among the individual elements of assorted prior art references to recreate the claimed invention." *Symbol Technologies, Inc. v. Opticon, Inc.*, 935 F.2d 1569, 19 U.S.P.Q.2d 1241 (Fed. Cir. 1991). Further, the showing of a motivation to combine must be clear and particular, and it must be supported by actual evidence. See *Teleflex, Inc. v. Ficosa North American Corp.*, 299 F.3d 1313, 63 U.S.P.Q.2d 1374 (Fed. Cir. 2002), citing *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999).

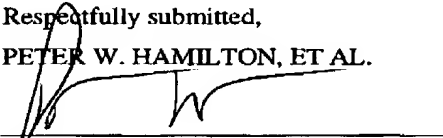
Because of these considerations, the *Hamilton* and *Sorensen* references do not teach or suggest what Applicants claim as their invention. The *Hamilton* or *Sorensen* references fail to disclose, teach, suggest, or render obvious, either singly or in combination, every recited feature of Applicants' Claim 21. In this light, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C. §103(a) rejection to Claim 31.

Conclusion

Based on the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512, and no fee is believed due. However, if any additional charges are due, the Examiner is hereby authorized to deduct such charge from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company.

Respectfully submitted,
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